

106TH CONGRESS
2D SESSION

H. R. 4488

To amend title 38, United States Code, to provide benefits for children of women Vietnam veterans who suffer from certain types of birth defects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2000

Mr. EVANS (for himself, Mr. FILNER, Ms. BROWN of Florida, Ms. CARSON, Mr. REYES, Mr. RODRIGUEZ, Ms. BERKLEY, Ms. BALDWIN, Mrs. MEEK of Florida, Ms. PELOSI, Mr. ABERCROMBIE, Mr. BAIRD, Mr. GREEN of Texas, Mr. HOLDEN, Mr. KENNEDY of Rhode Island, Mr. RANGEL, Mr. SANDERS, Ms. LOFGREN, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide benefits for children of women Vietnam veterans who suffer from certain types of birth defects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38,**
4 **UNITED STATES CODE.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Women Vietnam Veterans’ Children’s Birth Defects Ben-
7 efits Act.”

1 (b) REFERENCES TO TITLE 38, UNITED STATES
2 CODE.—Except as otherwise expressly provided, whenever
3 in this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to a
6 section or other provision of title 38, United States Code.

7 **SEC. 2. BENEFITS FOR CHILDREN OF WOMEN VIETNAM**
8 **VETERANS WHO SUFFER FROM BIRTH DE-**
9 **FECTS.**

10 Chapter 18 is amended—

11 (1) by inserting before section 1801 the fol-
12 lowing:

13 “SUBCHAPTER I—BENEFITS FOR CHILDREN OF
14 VIETNAM VETERANS WHO ARE BORN WITH
15 SPINA BIFIDA”;

16 (2) by inserting after section 1805 the following
17 new subchapters:

18 “SUBCHAPTER II—BENEFITS FOR CHILDREN
19 OF WOMEN VIETNAM VETERANS WHO SUFFER
20 FROM BIRTH DEFECTS

21 **“§ 1811. Definitions**

22 “For the purposes of this subchapter—

23 “(1) The term ‘child’ means a natural child of
24 a woman Vietnam veteran, regardless of the child’s
25 age or marital status, who was conceived after the

1 date on which the woman Vietnam veteran first en-
2 tered the Republic of Vietnam during the Vietnam
3 era.

4 “(2) The term ‘woman Vietnam veteran’ means
5 a woman who performed active military, naval, or
6 air service in the Republic of Vietnam during the
7 Vietnam era, without regard to the characterization
8 of the individual’s service.

9 **“§ 1812. Covered birth defects**

10 “(a) This subchapter applies with respect to any birth
11 defect, other than spina bifida, which results in a perma-
12 nent physical or mental disability, except for a birth defect
13 determined by the Secretary to result from a familial dis-
14 order, birth-related injury, or fetal or neonatal infirmity
15 with well-established causes. A birth defect to which this
16 subchapter applies pursuant to the preceding sentence is
17 referred to in this subchapter as a ‘covered birth defect’.

18 “(b) Where affirmative evidence establishes that a
19 particular birth defect suffered by an individual resulted
20 from a cause other than the service of the individual’s
21 mother in the Republic of Vietnam during the Vietnam
22 era, the provision of health care or other benefits under
23 this subchapter is not authorized.

1 **“§ 1813. Health care**

2 “(a) In accordance with regulations the Secretary
3 shall prescribe, the Secretary shall provide a child of a
4 woman Vietnam veteran who is suffering from a covered
5 birth defect with such health care as the Secretary deter-
6 mines is needed by the child for the birth defect or any
7 disability that is associated with such condition.

8 “(b) The Secretary may provide health care under
9 this section directly or by contract or other arrangement
10 with any health care provider.

11 “(c) For the purposes of this section—

12 “(1) The term ‘health care’—

13 “(A) means home care, hospital care, nurs-
14 ing home care, outpatient care, preventive care,
15 habilitative and rehabilitative care, case man-
16 agement, and respite care; and

17 “(B) includes—

18 “(i) the training of appropriate mem-
19 bers of a child’s family or household in the
20 care of the child; and

21 “(ii) the provision of such pharma-
22 ceuticals, supplies, equipment, devices, ap-
23 pliances, assistive technology, direct trans-
24 portation costs to and from approved
25 sources of health care, and other materials
26 as the Secretary determines necessary.

1 “(2) The term ‘health care provider’ includes
2 health care plans, insurers, organizations, institu-
3 tions, and any other entity or individual furnishing
4 health care services that the Secretary determines
5 are authorized under this section.

6 “(3) The term ‘home care’ means outpatient
7 care, habilitative and rehabilitative care, preventive
8 health services, and health-related services furnished
9 to an individual in the individual’s home or other
10 place of residence.

11 “(4) The term ‘hospital care’ means care and
12 treatment for a disability furnished to an individual
13 who has been admitted to a hospital as a patient.

14 “(5) The term ‘nursing home care’ means care
15 and treatment for a disability furnished to an indi-
16 vidual who has been admitted to a nursing home as
17 a resident.

18 “(6) The term ‘outpatient care’ means care and
19 treatment of a disability, and preventive health serv-
20 ices, furnished to an individual other than hospital
21 care or nursing home care.

22 “(7) The term ‘preventive care’ means care and
23 treatment furnished to prevent disability or illness,
24 including periodic examinations, immunizations, pa-
25 tient health education, and such other services as

1 the Secretary determines necessary to provide effective and economical preventive health care.

3 “(8) The term ‘habilitative and rehabilitative care’ means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 or 1814 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

10 “(9) The term ‘respite care’ means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

15 **“§ 1814. Vocational training and rehabilitation**

16 “(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a woman Vietnam veteran who is suffering from a covered birth defect if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

22 “(b) A program of vocational training for a child under this section shall be provided to the same extent and in the same manner as a program provided under section 1804 of this title to a child of a Vietnam veteran who

1 is suffering from spina bifida and shall be subject to the
2 same terms, conditions, and limitations set forth in that
3 section.

4 **“§ 1815. Monetary allowance**

5 “(a) The Secretary shall pay a monthly allowance
6 under this subchapter to any child of a woman Vietnam
7 veteran who suffers from a disability resulting from a cov-
8 ered birth defect which results in permanent impairment
9 of a physical or mental function in such child.

10 “(b)(1) The amount of the allowance paid under this
11 section shall be based on the degree of disability suffered
12 by a child, as determined in accordance with such schedule
13 for rating disabilities resulting from covered birth defects
14 as the Secretary may prescribe.

15 “(2) The Secretary shall, in prescribing the rating
16 schedule for the purposes of this section, establish four
17 levels of disability upon which the amount of the allowance
18 provided by this section shall be based. The levels of dis-
19 ability established shall take into account functional limi-
20 tations, including limitations on cognition, communication,
21 motor abilities, activities of daily living, and employability.

22 “(3) The amounts of the monthly allowance shall be
23 as follows:

24 “(A) For the lowest level of disability pre-
25 scribed, \$100.

1 “(B) For the first intermediate level of dis-
 2 ability prescribed, the greater of \$214 or the rate
 3 payable for the lowest level of disability under sec-
 4 tion 1805(b)(3) of this title.

5 “(C) For the second intermediate level of dis-
 6 ability prescribed, the greater of \$743 or the rate
 7 payable for the intermediate level of disability under
 8 section 1805(b)(3).

9 “(D) For the highest level of disability pre-
 10 scribed, the greater of \$1,272 or the rate payable for
 11 the highest level of disability under section
 12 1805(b)(3) of this title.

13 Such amounts are subject to adjustment under section
 14 5312 of this title.

15 “SUBCHAPTER III—GENERAL”;

16 (3) by redesignating section 1806 as section
 17 1821; and

18 (4) by adding at the end the following:

19 **“§ 1822. Effect of monetary allowance under this**
 20 **chapter on other benefits**

21 “(a) Notwithstanding any other provision of law, re-
 22 ceipt by an individual of an allowance under this chapter
 23 shall not impair, infringe, or otherwise affect the right of
 24 the individual to receive any other benefit to which the
 25 individual may otherwise be entitled under any law admin-

1 istered by the Secretary, nor shall receipt of such an allow-
 2 ance impair, infringe, or otherwise affect the right of any
 3 other individual to receive any benefit to which that indi-
 4 vidual is entitled under any law administered by the Sec-
 5 retary that is based on that individual's relationship to
 6 an individual who receives an allowance under this chap-
 7 ter.

8 “(b) Notwithstanding any other provision of law, the
 9 allowance paid to an individual under this chapter shall
 10 not be considered to be income or resources in determining
 11 eligibility for or the amount of benefits under any Federal
 12 or federally assisted program.

13 **“§ 1823. Nonduplication of benefits**

14 “(a) An individual who is entitled to a monthly allow-
 15 ance under both subchapter I and subchapter II of this
 16 chapter may not receive such benefit under each sub-
 17 chapter concurrently, but shall elect (in such form and
 18 manner as the Secretary may prescribe) under which sub-
 19 chapter to receive such benefit.

20 “(b) An individual may not be provided more than
 21 one program of vocational training under this chapter.”.

22 **SEC. 3. CLERICAL AND CONFORMING AMENDMENTS.**

23 (a) CHAPTER HEADING.—(1) The heading of chapter
 24 18 is amended to read as follows:

1 **“CHAPTER 18—BENEFITS FOR CERTAIN**
 2 **CHILDREN OF VIETNAM VETERANS”.**

3 (2) The item relating to chapter 18 in the tables of
 4 chapters before part I and at the beginning of part II is
 5 amended to read as follows:

“18. Benefits for Certain Children of Vietnam Veterans 1801”.

6 (b) AMENDMENTS TO CHAPTER 18.—Chapter 18 is
 7 amended—

8 (1) by striking “chapter” in sections 1801 and
 9 1802 and inserting “subchapter”;

10 (2) by striking “section 1804” in section
 11 1803(c)(8) and inserting “either section 1804 or
 12 1814”; and

13 (3) in section 1805—

14 (A) by striking “chapter” and inserting
 15 “subchapter”; and

16 (B) by striking subsections (c) and (d).

17 (c) OTHER AMENDMENTS.—Section 5312 is
 18 amended—

19 (1) in subsection (a), by striking “section
 20 1805” and inserting “sections 1805 and 1815”; and

21 (2) in subsection (c)(1), by striking “and 1805”
 22 and inserting “1805, and 1815”.

23 (d) TABLE OF SECTIONS.—The table of sections at
 24 the beginning of chapter 18 is amended—

25 (1) by inserting at the beginning the following:

“SUBCHAPTER I—BENEFITS FOR CHILDREN OF VIETNAM
VETERANS WHO ARE BORN WITH SPINA BIFIDA”;

1 (2) by striking the item relating to section
2 1806; and

3 (3) by adding at the end the following:

“SUBCHAPTER II—BENEFITS FOR CHILDREN OF WOMEN
VIETNAM VETERANS WHO SUFFER FROM BIRTH DEFECTS

“1811. Definitions.

“1812. Covered birth defects.

“1813. Health care.

“1814. Vocational training and rehabilitation.

“1815. Monetary allowance.

“SUBCHAPTER III—GENERAL

“1821. Applicability of certain administrative provisions.

“1822. Effect of monetary allowance under this chapter on other benefits.

“1823. Nonduplication of benefits.”.

4 **SEC. 4. EFFECTIVE DATE.**

5 The amendments made by this Act shall take effect
6 on the later of October 1, 2000, or the first day of the
7 first month beginning after the date of the enactment of
8 this Act.

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